Best Management Practices for Burial Sites and Human Remains in Yukon

March 2014
Edition 1

Yukon
Tourism and Culture

Collapsed grave fences at Herschel Island.

DISCLAIMER

Nothing in the Yukon Government Best Management Practices for Burial Sites and Human Remains shall be construed as waiving compliance with regulatory requirements imposed by law. It remains the responsibility of the proponent to satisfy themselves that the measures adopted in the specific instance are appropriate to the situation and satisfy all legal requirements within the jurisdiction.

Specific best management practices for specific problems cannot be given since solutions will, of necessity, be site and issue specific. Narrative BMPs are given indicating the type of measure which may be useful.

This guide is intended to provide users with up-to-date information about best management practices for burial sites and human remains discovered on the Yukon landscape but these guidelines should not be considered as comprehensive. There are both known and unknown sources of data which have not yet been incorporated and topics which have not yet been treated or addressed. These topics and data will be incorporated and new versions of the documents uploaded as time and resources permit. By their very nature many specific BMPs soon become obsolete as "better" BMPs become available but the concept and the identified objectives behind the examples remain valid.

Any comments, questions, or suggestions regarding the content of this document may be directed to:

Heritage Resources – Cultural Services Branch
Tourism & Culture, Box 2703
133A Industrial Road
Government of Yukon
Whitehorse, Yukon Y1A 2C6

Phone: (867) 667-5983
Fax: (867) 667-5377

All photos courtesy of Government of Yukon except as otherwise noted.

Table of Contents

1. Objectives 4
2. Context 4
3. Legislative Context for Protection of Historic Burial Sites 5
4. Potential Impacts to Burial Sites 6
5. What Happens if a Human Remains or Burials are Discovered? 7
6. Best Management Practices for Burial Site Protection 8
7. Definitions 11
8. Identifying Areas of High Potential for Burials 12
9. Contemporary Burials Outside Cemeteries 13
10. Reporting 13
11. References: Legislation, Policy and Standards for Historic Site Conservation and management. 14

    Yukon Government Links 14

    Policy and Guidelines 14

    Legislation 14

Testing for unmarked graves near Pioneer Cemetery.

Early 20th Century grave fence grave on the Blackstone River.

1. Objectives

To protect and manage burials and human remains found outside of known cemeteries.

To provide information and assistance to remote Yukon workers and travellers to ensure the protection of Yukon's heritage

2. Context

Prior to the mid 1900's, people in Yukon were often buried near where they died. As a result, historic burials may be found in a variety of settings on the Yukon landscape, from remote hilltops, to river terraces to placer mines. Graves may be marked with headstones, spirit houses, fences, simple crosses, or a piece of wood. But many historic burials are poorly marked or even indiscernible and no comprehensive inventory exists of grave locations in Yukon.

People working or travelling in Yukon's backcountry should be aware that graves may be encountered anywhere. Backcountry activities may result in the accidental discovery of historic graves. All historic burials are protected under the *Yukon Historic Resources Act*. The "Best Management Practices" outlined here can assist in the protection and management of Yukon's historic graves. All burial sites, whether located in a recognized cemetery or on a remote hill are places that should be treated with respect and dignity.

By becoming informed about best practices for recognizing, avoiding and reporting historic graves, those working and travelling in the backcountry can do their part to help preserve Yukon's rich heritage.

Historic burial of a Hudson's Bay man eroding out of a river bank near Fort Selkirk.

Using ground-penetrating radar to search for lost graves.

3. Legislative Context for Protection of Historic Burial Sites

Historic burial sites are protected under the *Yukon Historic Resources Act* and the Umbrella Final Agreement. The Government of Yukon is responsible for managing burial sites on non-settlement land, including Territorial Parks, and outside of national parks (i.e., Kluane, Vuntut and Ivaavik Parks). No one may search for, investigate, excavate, disturb or otherwise alter a grave on Yukon lands except in accordance with a permit under the Yukon Archaeological Sites Regulation. Permits are issued only to qualified researchers (usually professional archaeologists). On First Nation settlement land, burial sites are managed by the First Nation government

Specific directions for dealing with the accidental discovery of human remains are contained in Guidelines Respecting the Discovery of Human Remains and First Nation Burial Sites in the Yukon.

Burial sites are also protected by numerous federal and territorial legislations and industry specific permitting processes. These include but are not limited to: Criminal Code of Canada, Yukon *Cemeteries and Burial Sites Act*, *Yukon Coroner's Act*, *Yukon Territorial Lands Act*, Yukon Territorial Land Use Regulations, *Yukon Vital Statistics Act*, Yukon *Quartz Mining Act* and Regulations, *Yukon Placer Mining Act* and Regulations, *Yukon Surface Rights Act*, *Parks and Land Certainty Act*, Umbrella and Yukon First Nation Final Agreements, Sections 13.9.0 and 26.7.0, and Implementation Plans and Yukon Transboundary Agreement (Gwich'in Tribal Council), Sections 9 and 18, and Implementation Plan.

Emergency recovery of unmarked Gold Rush era burial, accidentally exposed during the excavation of the Dawson wastewater treatment facility in 2010. Work at the project was halted temporarily while the burial was recovered. (Tr'ondëk Hwëch'in Heritage Department photo).

4. Potential Impacts to Burial Sites

Marked and unmarked burial sites could be encountered on a variety of landscapes throughout Yukon. They are all protected and should not be disturbed. In many instances, burials in remote locations are cared for even today by relatives. When in the backcountry people should be aware of obvious or subtle indicators of past human occupations.

Burial sites may become exposed through natural erosion on prominent hilltops or river terraces (common) or through ground disturbing activities (rare). Graves were not always dug six feet deep and human remains can often be discovered very close to modern soil surfaces, or along the surface of the Yukon Arctic Coast.

Indicators of past human occupations	Direct evidence of graves may include
• cabins • caches • cut stumps • outhouses • tin cans • cleared meadows	• small collapsed wooden or wire fences • wooden markers or crosses • round or oval depressions in the ground • small vegetated mounds

5. What Happens if Human Remains or Burials are Discovered?

If an exposed burial or human remains are accidentally discovered the following guidelines apply:

a) The finder will immediately cease any further activity at the site and report the site to the RCMP.

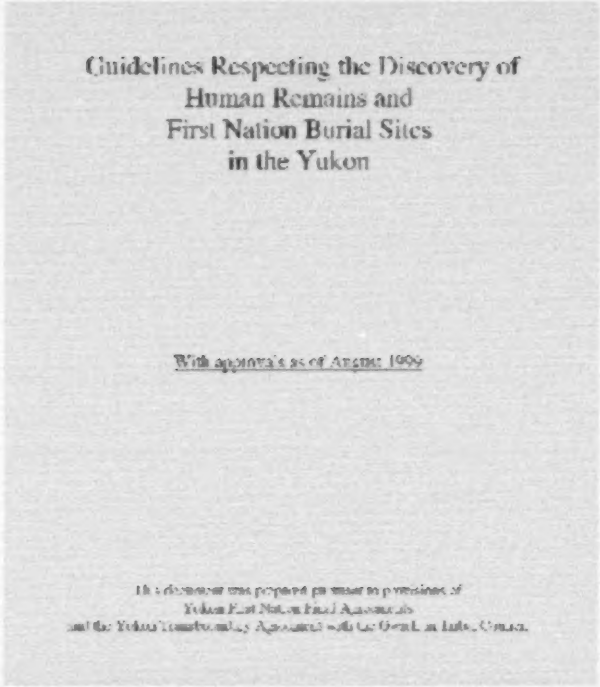
b) If possible, provide a photograph and GPS location.

c) If the finder is operating under a land use licence or permit, the site must also be reported immediately to the land manager/permitting authority, as set out in the permit. The land manager/permitting authority shall confirm that the site is reported to the RCMP.

d) Based on the information it receives, the RCMP will notify:

- the Coroner's office;
- both the First Nation(s) in whose Traditional Territory the Site is located, and the Yukon Government Heritage Resources Unit, if the site is a suspected historic or First Nation burial site.

The land manager/permitting authority shall take reasonable measures to protect the site from environmental factors and any form of unauthorized interference or disturbance. Where human remains are at risk of being destroyed or damaged, the Minister of Tourism and Culture for Heritage may issue a stop work order prohibiting any further activities and may make an agreement with the First Nation or the Teetl'it Gwich'in or land owner or user for any investigation, excavation, examination and preservation and removal of the remains, consistent with land claim provisions. (s.72, *Historic Resources Act*.)


Guidelines Respecting the Discovery of
Human Remains and
First Nation Burial Sites
in the Yukon

With appendices as of August 1999

This document was prepared pursuant to provisions of
Yukon First Nation Final Agreements
and the Yukon Umbrella Final Agreement with the Council of Yukon Indians

Detailed inventory and analysis of skeletal material can often identify age, gender and ancestry. Laying out bones in anatomical order allows measurements for stature and ensures all elements are recovered. This burial of a Hudson's Bay man near Fort Selkirk was exposed through shoreline erosion.

Graves and grave fences eroding into river near Lansing Post.

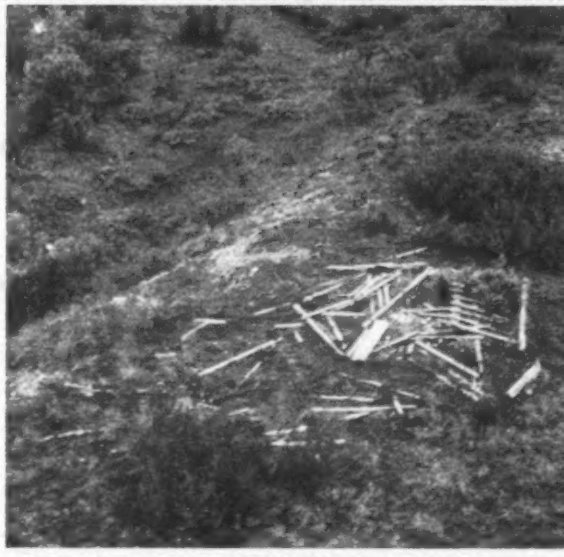
6. Best Management Practices for Burial Site Protection

Activity	Recommended Action
Project/Activity Planning	Prior to work, obtain information on the location of known heritage and grave sites in the area, such as cut stumps, trails, cabins or caches.
Brushing and Clearing	Avoid marked graves sites. Report marked and suspected graves found in remote locations to Government of Yukon (or to the First Nation if found on settlement land). If possible, photograph and obtain GPS coordinates. Discovered human remains (not associated with marked burial sites) must be reported to the RCMP. It is often difficult to distinguish human and animal bones. If in doubt, report to the RCMP. If operating under a land use permit, the discovery must also be reported to the Land Manager. Please refer to *Guidelines Respecting the Discovery of Human Remains and First Nation Burial Sites in the Yukon* for additional information **(http://www.tc.gov.yk.ca/pdf/respecting_guidelines.pdf)** Do not disturb human remains. If possible photograph and obtain GPS coordinates.

Historic coffins exposed by backhoe in Dawson City.

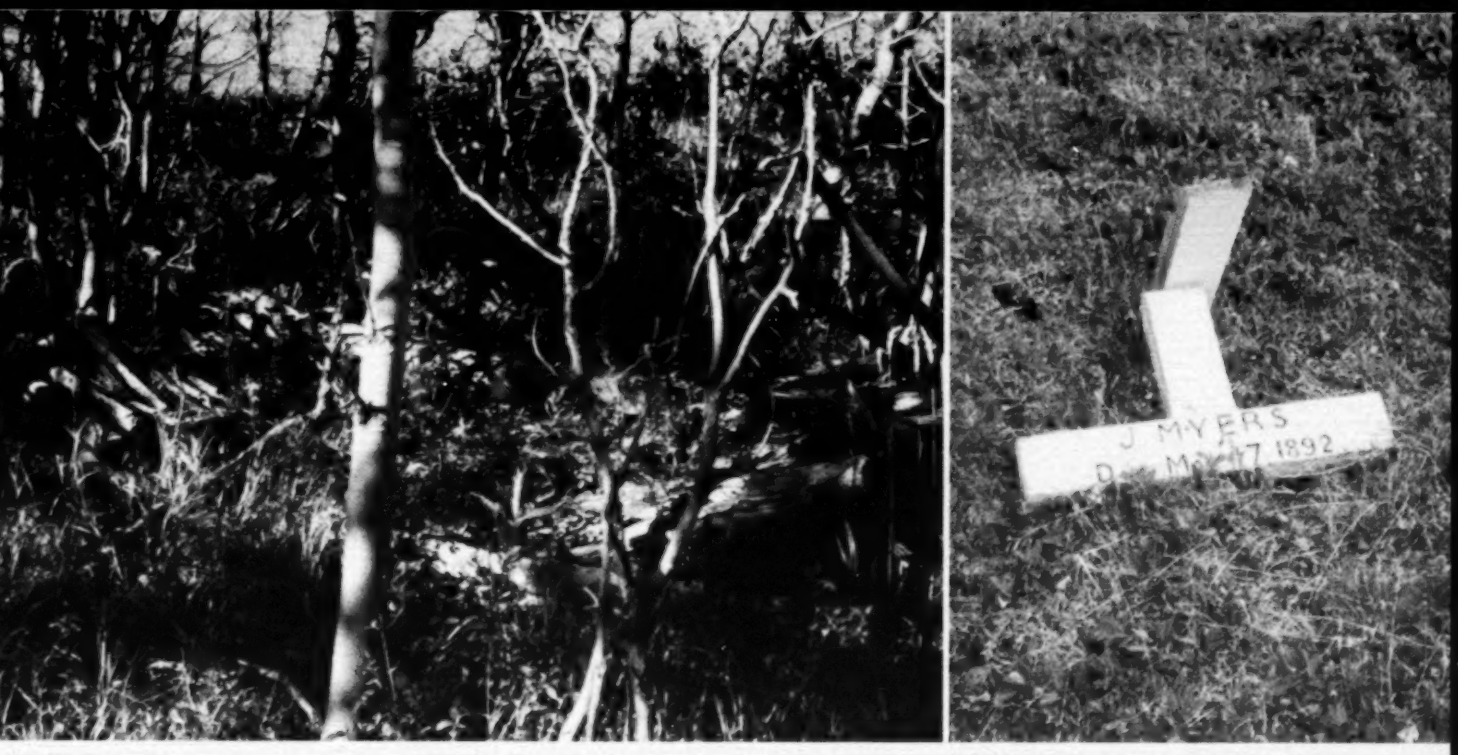
Activity	Recommended Action
Sub-surface and Ground Disturbing Activities	Avoid marked graves sites. Situate roads and trails away from the edge of terraces, ridges and other elevated land forms as these are areas of highest potential for burials. Report marked and suspected graves found in remote locations to Government of Yukon (or to the First Nation if found on settlement land). If possible, photograph and obtain GPS coordinates. Discovered human remains (not associated with marked burial sites) must be reported to the RCMP. If operating under a land use permit, the discovery must also be reported to the Land Manager. Please refer to *Guidelines Respecting the Discovery of Human Remains and First Nation Burial Sites in the Yukon* for additional information (**http://www.tc.gov.yk.ca/pdf/respecting_guidelines.pdf**) Do not disturb human remains. If possible photograph and obtain GPS coordinates.

Activity	Recommended Action
Backcountry Work/Travel	Report marked and suspected graves found in remote locations to Government of Yukon (or to the First Nation if found on settlement land). If possible, photograph and obtain GPS coordinates. Discovered human remains (not associated with marked burial sites) must be reported to the RCMP. It is often difficult to distinguish human and animal bones. If in doubt, report to the RCMP. If operating under a land use permit, the discovery must also be reported to the Land Manager. Please refer to *Guidelines Respecting the Discovery of Human Remains and First Nation Burial Sites in the Yukon* for additional information **(http://www.tc.gov.yk.ca/pdf/respecting_guidelines.pdf)** Do not disturb human remains. If possible photograph and obtain GPS coordinates.



Bottom: Collapsed grave fence located on a prominent ridge.

Top: Fallen grave marker and human bones on Yukon Arctic Coast.



Left: Log construction above-ground burial.
Right: Whaler's grave at Pauline Cove.

7. Definitions

burial site
the location of any human grave or remains that have been interred, cremated or otherwise placed, and include ossuaries, single burials, multiple burials; rock cairns; cave or cache burials etc. not situated within a cemetery

First Nation Burial Site
This refers to a Yukon First Nation Burial Site or a Teetl'it Gwich'in burial site, which is defined as: a place outside a recognized cemetery where the remains of a cultural ancestor of a Yukon Indian Person (or the Teetl'it Gwich'in) have been interred, cremated or otherwise placed." [from the Definitions section of the *Umbrella Final Agreement for the Council for Yukon Indians (now Council of Yukon First Nations) and the Transboundary Agreement between Canada and the Gwich'in Tribal Council*]

human remains
mean the remains of a deceased person and include partial skeletons, bones, cremated remains and complete human bodies that are found outside a recognized cemetery" (*adapted from Historic Resources Act*)

historic
under the *Historic Resources Act* objects or sites of historical significance that are 45 years or older.

land manager
Agency responsible for the administration of the land on which the site is located. For example, territorial parks are managed by Yukon Parks Branch, Department of Environment, Yukon highways and gravel pits are managed by Highways and Public Works and Settlement Land is administered by the First Nation. **Burial sites may not be disturbed on any land without proper authorization**.

recognized cemetery
a defined area of land that is set aside for the burial of deceased persons.

Lower right: Documenting a grave marker on a hilltop.

Right: A log construction, above-ground burial site.

8. Identifying Areas of High Potential for Burials

While in the past people were often buried where they died, generally graves and burial sites are located in the vicinity of historic human occupation. Information on the location of known heritage sites can be obtained from the Government of Yukon Heritage Resources Unit or, on Settlement Land, from the First Nation Heritage Office. Coordinates provided for many sites may not be precise, however, as information may have been gathered over several decades and coordinates were obtained prior to precision GPS. Coordinates for any given site might vary by up to 200 metres. Site locations are provided as point data, usually marked at the centre of a site. Sites vary in extent and size however, and information regarding this is located in the site record.

In the field, remains of old cabins, buildings, outhouses, tin cans and cut stumps provide evidence that people lived in the area. When such evidence is observed, prominent landscape features in the vicinity such as hilltops, terraces and knolls may be locations of burial sites and graves.

Collapsed above-ground grave in northern Yukon.

9. Contemporary Burials Outside Cemeteries

Burials are **not permitted** on Yukon Land (Crown Land) without a **Land Use Permit**, (i.e. land under the control and administration of the Commissioner), except in a designated locality such as a cemetery. Unauthorized burial on public land is considered an unauthorized occupation and the burial may be subject to removal pursuant to the *Territorial Lands Act*. Unauthorized burials are not guaranteed access. Unregistered and unmarked burials may be subject to inadvertent development impacts, sale of land or other disturbance. Burials on privately owned land are not protected in the event of transfer of land ownership and may be removed or the location lost due to land development.

10. Reporting

Marked and Suspected Burial Sites in Remote Locations

If a remote burial site is discovered mark or flag the site and buffer it from any further disturbance by at least 30 m.

For Mining Land Use Class 2 notification or Class 3 or 4 approval, the section on historic objects and burial sites in the Mining Land Use Regulation and permits from Mining Land Use will detail the manner of reporting.

If possible, the following information should be recorded:

- GPS location: latitude/longitude or UTM coordinates and NAD (27 or 83).
- Number of possible graves.
- Brief description of setting and access to assist others in locating the site.
- Brief description of associated site features (e.g., cabins, caches, outhouses etc.)
- Photographs.

Report heritage sites and features to:
Heritage Resources – Department of Tourism and Culture
Government of Yukon Box 2703,
Whitehorse, Yukon Y1A 2C6

Phone: (867) 667-5983 or toll-free 1-800-661-0408
Email: Heritage.Resources@gov.yk.ca

Crosses mark graves near an old trading post.

11. References: Legislation, Policy and Standards for Historic Site Conservation and Management

YUKON GOVERNMENT LINKS

Heritage Resources Unit – Archaeology Program
http://www.tc.gov.yk.ca/76.html

Historic Sites Unit
http://www.tc.gov.yk.ca/historicsites.html

POLICY AND GUIDELINES

Guidelines Respecting the Discovery of Human Remains and First Nation Burial Sites in the Yukon:
http://www.tc.gov.yk.ca/pdf/respecting_guidelines.pdf

Operational Policy for Heritage Resources Management on Yukon Lands:
http://www.tc.gov.yk.ca/pdf/Heritage_Resources_Operational_Policy.pdf

Handbook for the identification of Heritage Sites and Features
http://www.tc.gov.yk.ca/pdf/publications_heritagehandbook.pdf

Parks Canada – Standards and Guidelines for the Conservation of Historic Places in Canada
http://www.historicplaces.ca/nor-sta/pdf/sgnld_e.pdf

LEGISLATION

The Umbrella Final Agreement
http://www.aadnc-aandc.gc.ca/eng/1297278586814/1297278924701

Yukon Historic Resources Act
http://www.tc.gov.yk.ca/pdf/historic_resources_act.pdf

Archaeological Sites Regulation
http://www.tc.gov.yk.ca/pdf/oic2003_073.pdf

Yukon Environment and Socioeconomic Assessment Act
http://www.yesab.ca/

Quartz Mining Land Use Regulation
http://www.gov.yk.ca/legislation/regs/oic2003_064.pdf

Placer Mining Land Use Regulation
http://www.gov.yk.ca/legislation/regs/oic2003_059.pdf

Cemeteries and Burial Sites Act
http://www.gov.yk.ca/legislation/acts/cebusi.pdf

Yukon
Tourism and Culture